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15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 MICAH D. KALENOWSKI ,

18 Case No.: 2:20-cv-01743-GMN-VCF

19 Plaintiff,

20 vs.

21 CITY OF LAS VEGAS, NEVADA, et al.

22 Defendants.

23 **STIPULATION TO EXTEND THE
24 DEADLINE TO FILE DISPOSITIVE
MOTIONS
(First Request)¹**

25 IT IS HEREBY STIPULATED AND AGREED between the parties that the current
26 deadline to file dispositive motions of July 23, 2023, be continued for a period of 45 days up to
27 and including **September 6, 2023**. Good cause supports the extension of time because LVMPD
28 Defendants have agreed to allow Plaintiff to conduct two depositions after the discovery period
29 that ended on June 23, 2023: a deposition of Defendant Martin, and a deposition of LVMPD

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31 ¹ This is the parties' first Stipulation to extend just the dispositive motions deadline. The parties
32 have previously filed six Stipulations to extend discovery. Plaintiff's Motion to Extend Discovery
33 is still pending and this stipulation is not intended to supplant that Motion.

1 Defendants' Police Practices Expert, Ken Katsaris. Additional time is needed for the depositions
2 to occur, the parties to receive transcripts, then adequately prepare dispositive motions.

3 **I. DISCOVERY COMPLETED TO DATE**

4 The discovery period closed on June 23, 2023. During the discovery period, LVMPD
5 Defendants provided Rule 26 Disclosures and eighteen supplemental Disclosures to Plaintiff.
6 Plaintiff provided Rule 26 Disclosures and two supplemental Disclosures. The Parties have served
7 Interrogatories, Requests for Production of Documents, and Requests for Admissions, and the
8 Parties have entered into a Stipulated Protective Order.

9 LVMPD Defendants served eighteen out-of-state third-party subpoenas which netted over
10 600 pages of medical records and incident reports and video from the third-party venue where
11 Plaintiff's at-issue arrest took place. LVMPD Defendants have retained experts, including a
12 medical expert and police practices expert, as has Plaintiff. LVMPD Defendants conducted
13 depositions of Plaintiff's two experts and Plaintiff. Plaintiff conducted the depositions of
14 Defendant Miller and Defendant Fortner.

15 **II. DISCOVERY YET TO BE COMPLETED**

16 The Parties are coordinating the depositions of Defendant Martin and LVMPD Defendants'
17 police practices expert, Ken Katsaris. The depositions are tentatively set to be completed by the
18 second week of August 2023.

19 Plaintiff intends to take 30(b)(6) depositions of Defendant LVMPD, but cannot take those
20 depositions without rulings on the pending discovery motions. Said deposition will require a
21 Motion to Compel if the Motion to Extend is not granted.

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1 **III. REASONS WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

2 On June 7, 2023, Plaintiff e-mailed four Notices of Deposition to LVMPD Defendants'
 3 counsel. One of the Notices set Mr. Katsaris's deposition for June 22, 2023, and another set
 4 Defendant Martin's deposition for July 20, 2023, which meant to state June 20, 2023. Neither
 5 Defendant Martin nor Mr. Katsaris were available on these dates. Defendant Martin was not
 6 available due to an already planned vacation. LVMPD Defendants' police practices expert, Ken
 7 Katsaris, was not available due to previously scheduled travel for work regarding another lawsuit
 8 unrelated to this matter.

9 LVMPD Defendants agreed to allow Plaintiff to conduct the depositions of these two
 10 individuals after the close of discovery on June 23, 2023. Plaintiff re-set Mr. Katsaris's deposition
 11 to then occur on June 28, 2023, but then vacated that deposition due to Plaintiff's counsel having
 12 a vacation planned. Accordingly, the parties are now coordinating new dates for Mr. Katsaris's
 13 and Defendant Martin's depositions, which are both expected to be completed by the second week
 14 of August 2023.

15 **PROPOSED EXTENDED DEADLINES**

16 The Parties respectfully request this Court enter an order as follows:

17 **(A) Discovery Deadline.**

18 This deadline has expired, and this Stipulation does not extend this deadline.

19 **(B) Experts and Rebuttal Experts.**

20 This deadline has expired, and this Stipulation does not extend this deadline.

21 **(C) Dispositive Motions.**

22 All dispositive motions shall be filed by **September 6, 2023**.

23 **(D) Motions in Limine/*Daubert* Motions.**

24 Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and

1 served 30 days prior to the commencement of Trial. Oppositions shall be filed and served and the
2 motion submitted for decision 14 days thereafter. Reply briefs will be allowed only with leave of
3 the Court.

4 **(E) Pretrial Order.**

5 Pursuant to LR 26(1)(e)(5), the Joint Pretrial Order shall be filed with this Court no later
6 than thirty (30) days after the date set for filing dispositive motions, which is **October 6, 2023**,
7 unless dispositive motions are filed, in which case the date for filing the Joint Pretrial Order shall
8 be suspended until 30 days after the decision on the dispositive motions or further order of this
9 Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections shall be included
10 in the final pretrial order.

11 **(F) Extensions or Modification of the Discovery Plan and Scheduling Order.**

12 In accordance with LR 26-3, applications to extend any date set by the discovery plan,
13 scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be
14 supported by a showing of good cause for the extension. All motions or stipulations to extend a
15 deadline set forth in a discovery plan shall be received by the Court not later than 21 days before
16 the expiration of the subject deadline. A request made after the expiration of the subject deadline
17 shall not be granted unless the movant demonstrates that the failure to set was the result of
18 excusable neglect. Any motion or stipulation to extend a deadline or to reopen discovery shall
19 include:

20 (a) A statement specifying the discovery completed;
21 (b) A specific description of the discovery that remains to be completed;
22 (c) The reasons why the deadline was not satisfied or the remaining discovery was not
23 completed within the time limits set by the discovery plan; and
24 (d) A proposed schedule for completing all discovery.

1 The parties have been diligent in completing discovery. However, there were numerous
2 third-parties that did not timely respond to Subpoenas and it has caused delay which has
3 necessitated the need for more time.

4 This request for an extension is joined by all the Parties in this case. Trial is not yet set in
5 this matter and dispositive motions have not yet been filed. Plaintiff's counsel was on a planned
6 vacation June 23rd through July 2nd and was without access to his computer to review and edit the
7 stipulation. As such, this stipulation could not be entered until now. The aforementioned excusable
8 neglect occurred because of Plaintiff's counsel's vacation. All parties agree that under the
9 circumstances, given the numerous discovery motions pending and the need to take stipulated
10 depositions outside the discovery schedule, the dispositive motion deadline should be extended.

11 DATED this 7th day of July, 2023.

DATED this 7th day of July, 2023.

12 KAEMPFER CROWELL

McAVOY AMAYA & REVERO

13 By: /s/ Lyssa S. Anderson

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17 *Attorneys for Defendants*
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and Marcus Martin

Attorneys for Plaintiff

20 **IT IS SO ORDERED.**

21 DATED this 7th day of July, 2023.



23 _____
24 UNITED STATES MAGISTRATE JUDGE